

**Introduced by Committee on Judiciary (Senators Corbett (Chair),  
Hancock, Harman, Leno, and Walters)**

February 19, 2010

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An act to amend Section 1010.6 of the Code of Civil Procedure,  
relating to service of process.

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, as introduced, Committee on Judiciary. Electronic service  
of process.

Existing law authorizes a trial court to adopt local rules permitting  
electronic filing and service of documents, subject to rules adopted by  
the Judicial Council and other specified conditions.

This bill would modify those conditions, and would authorize the  
court, in any action in which a party has agreed to accept electronic  
service, or in which the court has ordered electronic service, as specified,  
to electronically serve any document issued by the court that is not  
required to be personally served, in the same manner that parties  
electronically serve documents. The bill would require the Judicial  
Council to adopt rules relating to the integrity of electronic service. The  
bill would make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1010.6 of the Code of Civil Procedure
- 2 is amended to read:

1 1010.6. (a) A trial court may adopt local rules permitting  
2 electronic filing and service of documents, subject to rules adopted  
3 pursuant to subdivision-(b) (c) and the following conditions:

4 (1) A document that is filed electronically shall have the same  
5 legal effect as an original paper document.

6 (2) (A) When a document to be filed requires the signature, not  
7 under penalty of perjury, of an attorney or a ~~person filing in propria~~  
8 ~~persona~~ *self-represented party*, the document shall be deemed to  
9 have been signed by that attorney or ~~person~~ *self-represented party*  
10 if filed electronically.

11 (B) When a document to be filed requires the signature, under  
12 penalty of perjury, of any person, the document shall be deemed  
13 to have been signed by that person if filed electronically and if a  
14 printed form of the document has been signed by that person prior  
15 to, or on the same day as, the date of filing. The attorney or person  
16 filing the document represents, by the act of filing, that the  
17 declarant has complied with this section. The attorney or person  
18 filing the document shall maintain the printed form of the document  
19 bearing the original signature and make it available for review and  
20 copying upon the request of the court or any party to the action or  
21 proceeding in which it is filed.

22 (3) Any document that is electronically filed with the court after  
23 the close of business on any day shall be deemed to have been  
24 filed on the next court day. "Close of business," as used in this  
25 paragraph, shall mean 5 p.m. or the time at which the court would  
26 not accept filing at the court's filing counter, whichever is earlier.

27 (4) The court receiving a document filed electronically shall  
28 issue a confirmation that the document has been received and filed.  
29 The confirmation shall serve as proof that the document has been  
30 filed.

31 (5) Upon electronic filing of a complaint, petition, or other  
32 document that must be served with a summons, a trial court, upon  
33 request of the party filing the action, shall issue a summons with  
34 the court seal and the case number. The court shall keep the  
35 summons in its records and may electronically transmit a copy of  
36 the summons to the requesting party. Personal service of a printed  
37 form of the electronic summons shall have the same legal effect  
38 as personal service of an original summons. If a trial court plans  
39 to electronically transmit a summons to the party filing a complaint,  
40 the court shall immediately upon receipt of the complaint notify

1 the attorney or party that a summons will be electronically  
2 transmitted to the electronic address given by the person filing the  
3 complaint.

4 (6) *A document may be served electronically in an action filed*  
5 *with the court as provided in this section. “Electronic service” is*  
6 *service of a document, on a party or other person, by either*  
7 *electronic transmission or electronic notification. “Electronic*  
8 *transmission” means the transmission of a document by electronic*  
9 *means to the electronic service address at or through which a*  
10 *party or other person has authorized electronic service.*  
11 *“Electronic notification” means the notification of the party or*  
12 *other person that a document is served by sending an electronic*  
13 *message to the electronic address at or through which the party*  
14 *or other person has authorized electronic service, specifying the*  
15 *exact name of the document served, and providing a hyperlink at*  
16 *which the served document may be viewed and downloaded.*  
17 *Electronic service may be performed directly by a party, by an*  
18 *agent of a party, including the party’s attorney, or through an*  
19 *electronic filing service provider.*

20 ~~(6) Where notice~~

21 (7) *If a document may be served by mail, express mail, overnight*  
22 *delivery, or facsimile transmission, electronic service of the notice*  
23 ~~*and any accompanying documents*~~ *document may be authorized*  
24 *when a party has agreed to accept service electronically in that*  
25 *action.* ~~Electronic~~

26 (8) *In any action in which a party has agreed to accept*  
27 *electronic service under paragraph (7), or in which the court has*  
28 *ordered electronic service under subdivision (b), the court may*  
29 *electronically serve any document issued by the court that is not*  
30 *required to be personally served, in the same manner that parties*  
31 *electronically serve documents. The electronic service of documents*  
32 *by the court shall have the same legal effect as service by mail,*  
33 *except as provided in paragraph (9).*

34 (9) *Electronic service of a document is complete at the time of*  
35 *the electronic transmission, but of the document or at the time that*  
36 *the electronic notification of service of the document is sent.*  
37 *However, any period of notice, or any right or duty to do any act*  
38 *or make any response within any period or on a date certain after*  
39 *the service of the document, which time period or date is prescribed*  
40 *by statute or rule of court, shall be extended after service by*

1 electronic transmission means by two court days, but the extension  
2 shall not apply to extend the time for filing notice any of the  
3 following:

4 (A) A notice of intention to move for new trial, notice trial.

5 (B) A notice of intention to move to vacate judgment pursuant  
6 to under Section 663a, or notice 663a.

7 (C) A notice of appeal. This

8 This extension applies in the absence of a specific exception  
9 provided for by any other statute or rule of court.

10 (7)

11 (10) The court shall permit a party or attorney to file an  
12 application for waiver of court fees and costs, in lieu of requiring  
13 the payment of the filing fee, as part of the process involving the  
14 electronic filing of a document. The court shall consider and  
15 determine the application in accordance with Section 68511.3  
16 Sections 68630 to 68641, inclusive, of the Government Code and  
17 shall not require the party or attorney to submit any documentation  
18 other than that set forth in Section 68511.3 Sections 68630 to  
19 68641, inclusive, of the Government Code. Nothing in this section  
20 shall require the court to waive a filing fee that is not otherwise  
21 waivable.

22 (8)

23 (b) If a trial court adopts rules conforming to paragraphs (1) to  
24 (7), inclusive subdivision (a), it may provide by order that all  
25 parties to an action file and serve documents electronically in a  
26 class action, a consolidated action, or a group of actions, a  
27 coordinated action, or an action that is deemed complex under  
28 Judicial Council rules, provided that the trial court's order does  
29 not cause undue hardship or significant prejudice to any party in  
30 the action.

31 (b) By January 1, 2003, the

32 (c) The Judicial Council shall adopt uniform rules for the  
33 electronic filing and service of documents in the trial courts of the  
34 state, which shall include statewide policies on vendor contracts,  
35 privacy, and access to public records, and rules relating to the  
36 integrity of electronic service. These rules shall conform to the  
37 conditions set forth in this section, as amended from time to time.